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PART II—Section 1

प्राधिकार से प्रकाशित

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Separate paging is given to this Part in order that it may be filed
as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 31st January, 1994/Magha 11, 1915 (Saka)

THE BANKING REGULATION (AMENDMENT)
ORDINANCE, 1994

No. 5 OF 1994

Promulgated by the President in the Forty-fifth Year of the
Republic of India.

An Ordinance further to amend the Banking Regulation
Act, 1949.

WHEREAS Parliament is not in session and the President is satisfied that
circumstances exist which render it necessary for him to take immediate
action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of
article 123 of the Constitution, the President is pleased to promulgate the
following Ordinance:—

1. (1) This Ordinance may be called the Banking Regulation (Amend-
ment) Ordinance, 1994;

(2) It shall come into force at once.

Short
title
and
com-
mence-
ment.

Amend-
ment of
section
10B.

2. In section 10B of the Banking Regulation Act, 1949 (hereinafter referred to as the principle Act),—

10 of 1949.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Notwithstanding any thing contained in any law for the time being in force or in any contract to the contrary, every banking company in existence on the commencement of the Banking Regulation (Amendment) Ordinance, 1994, or which comes into existence thereafter shall have one of its directors, who may be appointed as chairman of its board of directors on a whole-time or a part-time basis, and where he is appointed on a whole-time basis, he shall be entrusted with the management of the whole of the affairs of the banking company:

Provided that the Chairman shall exercise his powers subject to the superintendence, control and direction of the Board of directors.

(1A) Where a chairman is appointed on a part-time basis,—

(i) such appointment shall be with the previous approval of the Reserve Bank and be subject to such conditions as the Reserve Bank may specify while giving such approval:

(ii) the management of the whole of the affairs of such banking company shall be entrusted to a managing director who shall exercise his powers subject to the superintendence, control and direction of the Board of directors.”;

(b) in sub-section (2), for the words “Every chairman of the Board of directors”, the words “Every chairman of board of directors who is appointed on a whole-time basis and every managing director” shall be substituted;

(c) in sub-section (4),—

(i) in the opening paragraph, for the words “Every chairman of the board of directors of a banking company”, the words “Every chairman who is appointed on a whole-time basis or every managing director of a banking company appointed under sub-section (1A)” shall be substituted;

(ii) in the proviso, for the word “chairman”, the words “chairman appointed on a whole-time basis or a managing director” shall be substituted;

(d) in sub-sections (5) and (5A), for the words “A chairman of the board of directors” at both the places where they occur, the words “A chairman of board of directors appointed on a whole-time basis or a managing director” shall be substituted;

(e) in sub-section (6),—

(i) for the words “chairman of the board of directors” wherever they occur, the words “chairman of board of directors appointed on a whole-time basis or the managing director” shall be substituted;

(ii) for the words "chairman of its board of directors", at both the places where they occur, the words "chairman of the board of directors appointed on a whole-time basis or a managing director" shall be substituted;

(iii) for the words "appointed as chairman", the words "appointed as chairman on a whole-time basis or a managing director" shall be substituted;

(f) in sub-sections (8) and (9), for the word "chairman", wherever it occurs, the words "chairman of the board of directors appointed on a whole-time basis or a managing director" shall be substituted.

3. In section 10BB of the principal Act, for the word "chairman", wherever it occurs, the words "chairman of the board of directors appointed on a whole-time basis or a managing director" shall be substituted.

Amend-
ment of
section
10BB.

4. In section 10C of the principal Act, for the words "A chairman", the words "A chairman of the board of directors appointed on a whole-time basis or a managing director" shall be substituted.

Amend-
ment of
section
10C.

5. In section 10D of the principal Act, for the words "director or chairman", the words "director, the chairman of the board of directors appointed on a whole-time basis or managing director" shall be substituted.

Amend-
ment of
section
10D.

6. In section 12 of the principal Act, in sub-section (2), for the words "one per cent.", the words "ten per cent." shall be substituted.

Amend-
ment of
section
12.

7. In section 16 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

Amend-
ment of
section
16.

"(1) No banking company incorporated in India shall have as a director in its board of directors any person who is a director of any other banking company.

(1A) No banking company referred to in sub-section (1) shall have in its board of directors more than three directors who are directors of companies which among themselves are entitled to exercise voting rights in excess of twenty per cent. of the total voting rights of all the shareholders of that banking company."

8. In section 46 of the principal Act, in sub-section (4), for the portion beginning with the words "two thousand rupees" and ending with the words "one hundred rupees", the following shall be substituted, namely:—

Amend-
ment of
section
46.

"fifty thousand rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more; and where a contravention or default is a continuing one, with a further fine which may extend to two thousand and five hundred rupees".

9. In section 46A of the principal Act, for the words "Every chairman, director, auditor", the words "Every chairman appointed on a whole-time basis, managing director, director, auditor" shall be substituted.

Amend-
ment of
section
46A.

Amend-
ment of
section
47A.

10. In section 47A of the principal Act,—

(i) in sub-section (1), in clause (b), for the portion beginning with the words “two thousand rupees” and ending with the words “one hundred rupees”, the following shall be substituted, namely:—

“five lakh rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more; and where such contravention or default is a continuing one, a further penalty which may extend to twenty-five thousand rupees”;

(ii) for sub-sections (2) and (3), the following sub-section shall be substituted, namely:—

“(2) For the purpose of adjudging the penalty under sub-section (1), the Reserve Bank shall serve notice on the banking company requiring it to show cause why the amount specified in the notice should not be imposed and a reasonable opportunity of being heard shall also be given to such banking company.”.

SHANKER DAYAL SHARMA.

President.

A. C. C. UNNI.
Additional Secretary to the Govt. of India.